

APPEAL NO. 041083
FILED JUNE 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 23, 2004. The hearing officer determined that the appellant (claimant herein) is not entitled to supplemental income benefits (SIBs) for the second and third quarters. The claimant appealed the determination that she is not entitled to SIBs for the second and third quarters as being contrary to the evidence. The respondent (carrier herein) replies that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the hearing officer's decision and no reversible error in the record, we affirm the decision and order of the hearing officer.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on _____, and that the claimant has a 15% impairment rating. At issue is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying periods for the second and third quarters. It was not disputed that the claimant had an ability to work. The hearing officer determined that, in both quarters, the claimant's unemployment was a direct result of her impairment, that the claimant failed to cooperate with services provided by a private provider of vocational rehabilitation services hired by the carrier, and that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established (Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). Nothing in our review of the record reveals that the hearing officer's good faith determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse on appeal the determination that the claimant is not entitled to SIBs for the second and third quarters. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge